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Dieter Jablonka

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BACHMAN & LAPOINTE, P.C.

900 CHAPEL STREET

SUITE 1201

NEW HAVEN, CT 06510

EXAMINER

PATTERSON, MARC A

ART UNIT

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1794

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ADVISORY ACTION

Acknowledgment of Applicant's Arguments

1. The amendment made in Claim 28 in the After Final Amendment filed September 17, 2009 has not been entered because the amendment raises a new issue. Claim 28, prior to amendment, was not directed to a PCM latent heat storing material 'having a phase change temperature in the range of 15 to 40 degrees Celsius' or to 'forming a granular material.' The amendment therefore raises issues which would require further search and consideration to be fully considered, and the amendment has therefore not been entered. Even if the amendment were to be entered, the amended claim would not overcome the prior art of record, because it would have been obvious to one of ordinary skill in the art to vary the phase change temperature and size of the material depending on the desired use of the end product.
2. The amendment made in Claim 28 in the After Final Amendment filed September 17, 2009 has not been entered because the amendment raises the issue of new matter. The original specification is not directed to a PCM latent heat storing material having 'at least one of a length and a cross section in the range of 3.0 to 7.0 mm,' although a length of 3.0 to 7.0 mm appears to be disclosed.
3. The amendment made in Claim 47 in the After Final Amendment filed September 17, 2009 has not been entered because the amendment raises a new issue. Claim 47, prior to amendment, was not directed to a PCM latent heat storing material 'having a phase change temperature in the range of 15 to 40 degrees Celsius' or to 'forming a granular material.' The

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amendment therefore raises issues which would require further search and consideration to be fully considered, and the amendment has therefore not been entered. Even if the amendment were to be entered, the amended claim would not overcome the prior art of record, because it would have been obvious to one of ordinary skill in the art to vary the phase change temperature and size of the material depending on the desired use of the end product.

4. The amendment made in Claim 47 in the After Final Amendment filed September 17, 2009 has not been entered because the amendment raises the issue of new matter. The original specification is not directed to a PCM latent heat storing material having ‘at least one of a length and a cross section in the range of 3.0 to 7.0 mm,’ although a length of 3.0 to 7.0 mm appears to be disclosed.

ANSWERS TO APPLICANT’S ARGUMENTS

5. Applicant’s arguments regarding the 35 U.S.C. 103(a) rejection of Claims 28 and 30 – 32 as being unpatentable over German Patent No. 1511577, 35 U.S.C. 103(a) rejection of Claims 29 and 33 – 39 as being unpatentable over German Patent No. 1511577 in view of Frechtmann et al (U.S. Patent No. 2,977,729) and 35 U.S.C. 103(a) rejection of Claims 40 - 46 as being unpatentable over German Patent No. 1511577 in view of Frechtmann et al (U.S. Patent No. 2,977,729) and further in view of Katz (U.S. Patent No. 4,759,814), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 10 of the remarks dated filed September 17, 2009 that German Patent No. 1511577 fails to disclose a PCM latent heat storing material having a phase change temperature in the range of 15 to 40 degrees Celsius, and at least one of a length and a cross section in the range of 3.0 to 7.0 mm.

However, as stated above, Claim 28, prior to amendment, was not directed to a PCM latent heat storing material 'having a phase change temperature in the range of 15 to 40 degrees Celsius' or to 'forming a granular material.' The amendment therefore raises issues which would require further search and consideration to be fully considered, and the amendment has therefore not been entered. Furthermore, as stated above, the original specification is not directed to a PCM latent heat storing material having 'at least one of a length and a cross section in the range of 3.0 to 7.0 mm.'

Applicant also argues on page 10 that the claimed particle length provides quick reaction time and easy processing.

However, it is not clear where the criticality of the length, and its relation to quick reaction time and easy processing, is discussed in the original specification.

Applicant also argues, on page 11, that the materials described in the '577 patent, including soft paraffin and hard paraffin, are not PCM materials.

However, paragraphs 0013 and 0037 disclose paraffin as a PCM material.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497.

The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Marc A Patterson/
Primary Examiner, Art Unit 1794